

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SHANNON O. MURPHY ESQ. SR. dba
SHEETMETAL & ASSOCIATES,

Case No. 1:21-cv-01238-DAD-SKO

Plaintiff,

ORDER TRANSFERRING CASE

v.

U.S. INTERNAL REVENUE SERVICE
TAXPAYER ADVOCATE,

Defendant.

On August 16, 2021, Plaintiff Shannon O. Murphy Esq. Sr. dba Sheetmetal & Associates (“Plaintiff”), proceeding *pro se*, filed a “Complaint and Demand for Jury Trial” (the “Complaint”) against Defendant U.S. Internal Revenue Service Taxpayer Advocate (“IRS” or “Defendant”). (Doc. 1.) Plaintiff’s Complaint does not contain any allegations against Defendant. (*See id.*) Rather, the Complaint states that “Plaintiff wishes . . . to add facts concerns [sic] the already filed

1 complaint” and directs the Court to the complaint filed in case number “3:19-cv-0076-SK,” a case
 2 in which the Honorable Sallie Kim is the assigned magistrate judge.¹ (*Id.*)

3 The defendant in this action, the IRS, is a federal agency. The federal venue statute provides
 4 that “[a] civil action in which a defendant is . . . an agency of the United States . . . may, except as
 5 otherwise provided by law, be brought in any judicial district in which (A) a defendant in the action
 6 resides, (B) a substantial part of the events or omissions giving rise to the claim occurred, or a
 7 substantial part of property that is the subject of the action is situated, or (C) the plaintiff resides if
 8 no real property is involved in the action.” 28 U.S.C. § 1391(e)(1).

9 For the purposes of venue under 28 U.S.C. § 1391(e)(1), federal agencies, such as the IRS,
 10 are deemed to reside in the District of Columbia. *See Downey v. US*, No. CV 19-00406 LEK-WRP,
 11 2019 WL 4143288, at *3 (D. Haw. Aug. 30, 2019); *Williams v. United States*, No. C-01-0024 EDL,
 12 2001 WL 1352885, at *1 (N.D. Cal. Oct. 23, 2001). The Complaint indicates that Plaintiff is located
 13 in Pittsburg, California, which is in the Northern District of California. (*See* Doc. 1.) It is unclear
 14 where the events or omissions giving rise to Plaintiff’s claims occurred, as the Complaint does not
 15 contain any allegations against Defendant. (*See id.*) The Complaint, however, makes an express
 16 reference to a case filed in the United States District Court for the Northern District of California.²
 17 As neither Plaintiff nor Defendant resides in this district, and there are no allegations in the
 18 Complaint indicating that the events or omissions giving rise to Plaintiff’s claims occurred in this
 19 district, venue in Eastern District of California is improper.

20 In the interest of justice, a federal court may transfer a complaint filed in the wrong district
 21 to the correct district. *See* 28 U.S.C. § 1406(a); *Abrams Shell v. Shell Oil Co.*, 165 F. Supp. 2d 1096,
 22 1103 (C.D. Cal. 2001). Given that Plaintiff resides in the Northern District of California and the
 23 present Complaint conveys an intent to supplement the complaint in case number 4:19-cv-00076,
 24 which is pending in that district, the Court finds that venue in the Northern District of California is

25 ¹ The Court notes that the case number identified in the Complaint contains a typographical error. A search of that
 26 number in the Public Access to Court Electronic Records (“PACER”) service did not return any case associated with
 27 Plaintiff. The correct case number appears to be No. 4:19-cv-00076-YGR, as Plaintiff is also the plaintiff in that case,
 and the Honorable Sallie Kim is the assigned magistrate judge. *See Shannon O. Murphy, Sr. v. Office of the U.S.*
Senator, Kamala Harris, No. 4:19-cv-00076-YGR (N.D. Cal.).

28 ² Plaintiff does not appear to add any facts to the complaint in the Northern District case through the pleading he has
 filed in the instant case. (*See id.*)

1 appropriate.

2 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States
3 District Court for the Northern District of California.

4
5 IT IS SO ORDERED.

6 Dated: August 17, 2021

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE